

**FILED**

SEP 21 2022

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, SHERMAN DIVISION

CHIA JEAN LEE

V.

UNITED STATES OF AMERICA

CIVIL NO: 4: 21-CV-726

CRIMINAL NO: 4:17-CR-9 (2)

REPLY TO GOVERNMENTS OPPOSITION TO LEE'S 2255 MOTION

In response to the Government's motion in opposition (doc 9 pg 4 of 12) the Government stated that Lee's motion was "difficult to decipher". The Government speculated on Lee's claims making an attempt to clarify the Government's speculation timely and impractical due to Lee's health and the restricted modified operation in which FMC Carswell is operating under. Lee is recently recuperating from breast cancer and was moved from the camp to the hospital for treatment. Lee is in a special housing unit, that along with modified operations due to COVID, movement for either medical, education, sick call or law library is restricted to one day per week. Commissary for stamps and copy cards are restricted to once every two weeks once commissary reopens. Commissary is closed until the beginning of October due to inventory. Currently the copying machine is broken so making copies of exhibits is unavailable. Copying machine equipment repair times and procedures are not disclosed to inmates. Carswell is short staffed and augmenting operational staff therefore even the barest of services are often denied.

In response and in light of the Supreme Court ruling in "Xiulu Ruan v. United States 20-1410 597 U.S. \_\_\_\_ (2022) stating that the "knowingly or intentionally" mens rea applies to the authorization, and the Government must prove beyond a reasonable doubt that the defendant knew that he or she was acting in an unauthorized manner or intended to do so", Lee's case should be vacated.

Lee's jury instructions (doc 114 pgs. 14-18) are not consistent with the Supreme Court ruling in Ruan and did not include the "except as authorized" clause in the elements of the statute (doc 114 pgs. 14-18) and is otherwise not consistent with, nor complies with, the ruling of the Supreme Court's decision in Ruan. Lee's jury instructions that are not consistent with Supreme Court's ruling in Ruan are not harmless.

Due to the hardships Lee is facing and in light of Ruan, Lee request the court vacate and remand her conviction consistent with the Supreme Court decision in Ruan and/or provide counsel to help Lee litigate further proceedings, or whatever the Court deems appropriate.

Respectfully submitted

*Chia Jean Lee*

Chia Jean Lee # 26965078

On the 12th day of September, 2022

TRULINCS 26965078 - LEE, CHIA JEAN - Unit: CRW-D-A

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FROM: 26965078

TO:

SUBJECT: Certificate of Service

DATE: 09/14/2022 11:03:23 PM

CERTIFICATE OF SERVICE

I, CHIA JEAN LEE, Declare under penalty of perjury,

did mail my Response to the Government's Opposition To Lee's 2255 Motion

through the Carswell Prison mailbox system to the Clerk of the Court

For the EASTERN DISTRICT OF TEXAS, SHERMAN DIVISION

located at 101 E. PEACAN ST., SHERMAN, TX 75090

on the 16<sup>th</sup> day of September, 2022

Signature Chia Jean Lee

Chia Jean Lee #26965078

Date: Sep. 16. 2022